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March 19, 2007

FLORENCE P. BELSER
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VIA E-FILING & HAND DELIVERY

The Honorable Charles L.A. Terreni
Chief Clerk/Administrator
South Carolina Public Service Commission
101 Executive Center Dr., Suite 100
Columbia, SC 29210

Re: Application of Wyboo Plantation Utilities, Incorporated for Approval of New Schedule of
Rates and Charges for Water and Sewer Services
Docket No. 2005-13-WS

Dear Mr. Terreni:

Enclosed please find the original and one copy of the Office of Regulatory Staff's Petition For Rehearing and/or Reconsideration in the above referenced docket.

Please note that the attached documents are exact duplicates, with the exception of the form of the signature, of the e-filed copy submitted to the Commission in accordance with its electronic filing instructions.

By copy of this letter we are also serving all other parties of record. Please let me know if you have any questions.

Sincerely,

Wendy B. Cartledge

Wendy B. Cartledge

WBC/pjm
Enclosures

cc: John F. Beach, Esquire
Charles H. Cook, Esquire
Scott Elliott, Esquire
Robert E. Tyson Jr., Esquire

BEFORE
THE PUBLIC SERVICE COMMISSION
OF SOUTH CAROLINA
DOCKET NO. 2005-13-WS
MARCH 19, 2007

IN RE: Application of Wyboo Plantation)	PETITION FOR REHEARING
Utilities, Inc. for Approval of New)	AND/OR RECONSIDERATION
Schedule of Rates and Charges)	
For Water and Sewer Services.)	
_____)	

The Office of Regulatory Staff (“ORS”), pursuant to S.C. Code Ann. § 58-5-330 (Supp. 2006), and 26 S.C. Code Regs. 103-836 and 103-881 (Supp. 2005), and other applicable law, submits this petition for rehearing or reconsideration of Order No. 2007-138 in the above-captioned matter, and in support thereof would respectfully show as follows:

BACKGROUND

1. On August 17, 2006, Wyboo Plantation Utilities, Inc. (“WPU” or the “Company”), filed an Application and Request for Interim Order by which WPU sought approval of a new schedule of rates and charges for water and sewer services (“Application”). WPU is a NARUC Class C water and wastewater utility. WPU’s service area includes portions of Sumter and Clarendon counties. According to WPU’s Application, water supply and distribution services were provided to 472 residential and commercial customers and 165 irrigation customers, and wastewater collection and

treatment services were provided to 245 residential and commercial customers. WPU's customers are in and around the Wyboo Plantation Subdivision in Clarendon County, the Cedar Hill Mobile Home Park, and the Granada Mobile Home Park of Sumter County. On August 22, 2006, WPU filed its Amended Notice of Filing and Hearing and an Amended Proposed Schedule of Rates and Charges which were accepted by the Commission.

2. A public hearing concerning the matters asserted in WPU's Application was held from January 22nd through January 24th, 2007. After holding the public hearing, the Commission issued its Order No. 2007-138, dated February 26, 2007. In its Order, the Commission addressed certain issues in this docket, denied WPU an increase in rates and charges for water and wastewater services, denied WPU an expansion of its service area and dismissed WPU's application. The Commission further ordered that WPU correct all violations of statutes, rules and regulations pertaining to its water and sewer utilities and bring itself into full compliance with all applicable statutes, rules and regulations.¹ The Commission also adopted water tap fees and an increase in the sewer connection fee and held that these fees are the only authorized fees associated with water or sewer connection. The Commission's order also provided that WPU continue to own, operate, maintain and repair all STEP systems and all of its water and wastewater treatment facilities at its own expense. Lastly, the Commission approved the stipulation of WPU and the Villas.

¹ Pursuant to S.C. Code Ann. §58-5-220 (Supp. 2006), ORS may, in its discretion, subject to approval of the Commission, establish a standardized system of accounts to be kept by the public utilities subject to its jurisdiction; and prescribe the manner in which such accounts shall be kept.

3. ORS received Order No. 2007-138 dated February 26, 2007, by certified mail on February 27, 2007.

DISCUSSION

4. While ORS supports the Commission's decision to deny WPU's Application, ORS respectfully requests that the Commission reconsider three specific items. In each of these instances, ORS respectfully submits that portions of Order No. 2007-138 prejudices ORS' substantial rights because certain finding, inferences, conclusions, and decisions made therein are erroneous, unsupported by substantial evidence, arbitrary and capricious, characterized by abuse of discretion, in violation of constitutional or statutory provisions, made upon unlawful procedures, or affected by other error of law or fact, as set forth herein. First, ORS submits that certain facts should be clarified as discussed more fully below. Second, ORS requests that the Commission require WPU to continue serving those customers located in Mill Creek at the current Commission approved rates and charges. Third, ORS respectfully requests that the Commission address the issue of the performance bond raised by ORS in its testimony and proposed order, and require WPU to post a performance bond that complies with S.C. Code Ann. § 58-5-720 (Supp. 2006).

5. **Request for Clarification.** With regard to the testimony of ORS auditor Christina L. Seale, Order No. 2007-138 at page 9 states "[t]he ORS withdrew Seale's prefiled testimony and did not plan to call her as a witness." The record does not support this statement that ORS withdrew the testimony of Ms. Seale and did not plan to call Ms. Seale as a witness. While ORS withdrew Seale's original prefiled testimony, ORS also submitted revised testimony with the Commission on January 19, 2007. As stated in her

revised testimony, Ms. Seale revised her testimony to exclude affiliate transactions as a result of Commission Order No. 2006-729, dated November 29, 2006. Ms. Seale's original prefiled testimony filed on November 8, 2006, was no longer supported as a result of the Commission's Order. Ms. Seale's revised testimony eliminated any figures with respect to affiliate transactions including salary and associated taxes, transactions concerning a credit card owned by an affiliate, and a lease between WPU and its owner, Wrigley. WPU issued a subpoena for Ms. Seale and introduced Ms. Seale's testimony in its case in chief. Because WPU called Ms. Seale as a witness, ORS conducted its examination of Ms. Seale while she was still on the stand having been compelled to testify by WPU. However, at no point on the record did ORS suggest that it would not call Ms. Seale as a witness.

6. **Request That The Commission Require WPU to Continue to Serve Mill Creek Subdivision Customers.** The Commission properly found that WPU extended its service area without first obtaining Commission approval. However, in the interest of ensuring that consumers continue to receive service, ORS requests that the Commission require WPU to continue providing sewer service to customers in the Mill Creek Subdivision at the rates currently approved by the Commission. Additionally, ORS respectfully requests that the Commission order WPU to follow the procedures required by 26 SC Code Regs. 103-504 (Supp. 2006) and seek Commission approval for the expansion of its service area.

7. **Request for Performance Bond.** With respect to the "Specific Violations" noted by the Commission in Order No. 2007-138, the Order does not address WPU's failure to comply with the performance bond requirements. Pursuant to S.C.

Code Ann. § 1-23-350 entitled “Final decision or order in contested case” of the Administrative Procedures Act, “[i]f, in accordance with agency rules, a party submitted proposed findings of fact, the decision shall include a ruling upon each proposed finding.” In order to protect the ratepayers in the event the utility becomes non-viable, the performance bond for water and wastewater operations should be increased to \$110,000 and \$100,000 respectively in order for WPU to satisfy the minimum bond amounts as required by S.C. Code Ann. § 58-5-720 (Supp. 2006), should be properly secured, and should comply with the criteria set forth in 26 S.C. Code Regs. 103-512.3.1 and 103.712.3.1 (Supp. 2005).

8. S.C. Code Ann. Section 58-5-720 was amended in May 2000 and increased the required amounts of performance bonds to a minimum of \$100,000 and a maximum of \$350,000. Thereafter, the Commission’s regulations were amended to provide guidance for determining the amount of bond required by each utility. Under amended 26 S.C. Code Regs. 103-512.3.1 (Supp. 2005), the amount of the bond is required to be based on the total amount of certain expense categories. 26 S.C. Code Regs. 103-512.3.1 and 103-712.3.1 state that:

...the amount of bond shall be based on, but not limited to, the total amount of the following categories of expenses for twelve months: Operation and Maintenance Expenses, General and Administrative Expenses, Taxes Other Than Income Taxes, Income Taxes, and Debt Service including Interest Expenses.

WPU has current performance bonds filed with the Commission for water and sewer operations which use a Personal Financial Statement as surety in the amount of \$100,000 for water and \$100,000 for sewer. (Hearing Exhibit 11, Exhibit WJM-6, pp. 1-9).

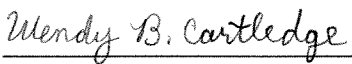
However, the Personal Financial Statement submitted by the utility is deficient in that it (1) does not contain a comprehensive listing of all assets and liabilities of Mr. Mark Wrigley; (2) the assets listed are valued at replacement cost instead of actual value; (3) the assets are not itemized; (4) the assets include those owned by the utility; and (5) Mr. Mark Wrigley's net worth is not sufficient as required by 26 S.C. Code Ann. Regs. 103-512.3.2 and 103-712.3.2. (Hearing Exhibit 11, Exhibit WJM-6, pp. 7-9). Based on the expenses from the test year and using the criteria set forth in 26 S.C. Code Regs. 103-512.3.1 and 103-712.3.1, the face amount of WPU's bond should be \$110,000 for water operations and \$100,000 for wastewater operations. (Hearing Exhibit 11, Revised Exhibit WJM-7, p.1). Bonding criteria expenses for the test year after accounting and pro forma adjustments are \$102,363 for water operations and \$54,656 for wastewater operations. (Hearing Exhibit 11, Exhibit WJM-7, p.1). Combined bonding criteria expenses, as adjusted, totaled \$157,019 for the test year ending December 31, 2005. (Hearing Exhibit 11, Exhibit WJM-7, p.1).

Conclusion

9. ORS respectfully requests that the Commission (1) clarify its Order to reflect that ORS submitted revised testimony for Ms. Seale and to retract the phrase on page 9, line 6 in the Order that states ORS "... did not plan to call her as a witness;" (2) require WPU to continue to provide service to Mill Creek customers at Commission approved rates and require WPU to file an application for expansion of its system; and (3) require WPU to post a performance bond in the amounts of \$110,000 for water operations and \$100,000 for wastewater operations that is properly secured and complies with S.C. Code Ann. § 58-5-720 (Supp. 2006).

WHEREFORE, having set forth the proper grounds, ORS requests that the Commission issue an order: (a) granting this petition for reconsideration; (b) modifying the findings, conclusions and decisions in Order No. 2007-138 in accordance herewith; and (c) granting ORS such other and further relief as is just and proper.

Respectfully submitted,



Wendy B. Cartledge, Esquire
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Columbia, South Carolina
This 19th day of March, 2007

BEFORE
THE PUBLIC SERVICE COMMISSION OF
SOUTH CAROLINA
DOCKET NO. 2005-13-WS


IN RE:)	
Application of Wyboo Plantation Utilities,)	
Incorporated for Approval of New Schedule)	CERTIFICATE OF
Of Rates and Charges for Water and Sewer)	SERVICE
Services)	

This is to certify that I, Pamela J. McMullan, an employee with the Office of Regulatory Staff, have this date served one (1) copy of the **PETITION FOR REHEARING AND/OR RECONSIDERATION** in the above-referenced matter to the person(s) named below by causing said copy to be deposited in the United States Postal Service, first class postage prepaid and affixed thereto, and addressed as shown below:

John F. Beach, Esquire
Ellis Lawhorne & Sims, PA
Post Office Box 2285
Columbia, SC 29202

Charles H. Cook, Esquire
Scott Elliott, Esquire
Elliott & Elliott, P.A.
721 Olive Street
Columbia, SC, 29205

Robert E. Tyson Jr., Esquire
Sowell Gray Stepp & Laffitte, LLC
Post Office Box 11449
Columbia, SC, 29211



Pamela J. McMullan

March 19, 2007
Columbia, South Carolina